

DEFAULT NOTED.

Sandy Opacich, Clerk of Court

s/ Laura Doerfler

Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

FIREXO INC.,

Plaintiff,

v.

FIREXO GROUP LIMITED,

Defendant.

Case No. 3:21-CV-02336

Judge Jack Zouhary

**PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT
AGAINST FIREXO GROUP LIMITED**

Firexo Inc. respectfully moves under Fed. R. Civ. P. 55(a) and this Court's inherent authority for an Order for Entry of Default against Plaintiff Firexo Group Limited and states as follows:

1. On September 17, 2024, Plaintiff was advised by counsel for Firexo Group Limited (FGL) of its intent to file a motion with the Court seeking leave to withdraw as counsel. FGL's counsel also noted that FGL was aware of its obligation under the law to retain new counsel if it "intends to maintain its defenses in this litigation." A true copy of the email is attached as Exhibit A. Thereafter, on September 19, 2024, all counsel for FGL made a motion for leave to withdraw as counsel (Doc. 31) based on "fundamental difference between Calfee and FGL that require Calfee to move for leave ... consistent with Ohio Rule of Professional Conduct 1.16." (Doc. 31 at ¶1). The court granted Calfee's motion on September 20, 2024 via minute order (Doc. 32).

2. Since September 20, 2024, FGL has been unrepresented. As such, FGL is unable to defend itself. *See, e.g., Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201–02 (1993) (“It has been the law for the better part of two centuries, for example, that a corporation may appear in the federal courts only through licensed counsel.”).
3. Recognizing this principle, this Court ordered FGL to obtain replacement counsel twice (Docs. 34 and 35). FGL has failed to obtain counsel and now stands in default for failing to “otherwise defend” this action, rendering an entry of default under Fed. R. Civ. P. 55(a) appropriate and necessary.
4. Although Rule 55 contemplates that the clerk of court records an entry of default, “a district judge also possesses the inherent power to enter a default.” *U.S. Dep't of Labor v. Elite Sec. Consultants LLC*, 2021 WL 4863015, at *3 (N.D. Ohio Oct. 19, 2021) (citing *City of New York v. Mickalis Pawn Shop LLC*, 645 F.3d 114, 128 (2d Cir. 2011)). “Such entry of default is appropriate even where, as here, despite the filing of an initial answer by former counsel, defendant has shown no ability or willingness to continue or ‘otherwise defend’ the case.” *Id.* at *3 (cleaned up) (collecting supporting cases). In this instance, the appropriate and predominant practice is applying to the Court for entry of default. *See* 10A Fed. Prac. & Proc. § 2682 (4th ed.); *Mickalis Pawn Shop, LLC*, 645 F.3d at 128; *Vargas-Puerta v. U.S. Dep't of Homeland Sec.*, 2021 WL 4523437, at *1 (N.D. Ga. Oct. 4, 2021).

CONCLUSION

WHEREFORE, Plaintiff, Firexo, Inc. respectfully requests this Court issue an Order for Entry of Default against Defendant, Firexo Group Limited. A proposed order accompanies this motion.

Respectfully submitted,

/S/ Paul Belazis

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Counsel for Firexo, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on 4th day of December, 2024 a copy of this motion was served on counsel of record for all parties through the Court's CM/ECF system and on Defendant, Firexo Group Limited at its registered office, 6th Floor, 2 London Wall Place, London, EC2Y 5AU, United Kingdom through First-class Mail and by email to Harry Sanders, the appointed Liquidator for Firexo Group Limited, at *harry.sanders@mha.co.uk*.

/S/ Paul T. Belazis

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Counsel for Firexo, Inc.

Exhibit A

From: Blake, Jake <JBlake@Calfee.com>
Sent: Tuesday, September 17, 2024 12:50 PM
To: jpwdawson655@gmail.com
Cc: Paul Belazis <belazis@maf-law.com>
Subject: RE: Plaintiff's Discovery Request to Firexo Group Limited

All:

I have been in a deposition and travelling for the last few days and just realized that my assistant did not complete service of FGL's discovery responses. I have attached the responses and objections hereto and apologize for the half-day delay.

I will also forward your Stipulated Protective Order to the client for review and approval.

Finally, I regret to inform you that Calfee will be withdrawing from all matters related to Firexo Group Limited. I have previously discussed withdraw with FGL will formally do so in writing later today. My intent will be to file the motions later this week. I want to personally thank you for your professionalism, and I have nothing but admiration for your handling of this matter on behalf of your client. I do not know whether FGL will retain new counsel, but I have informed him of his requirement to do so under the law if FGL intends to maintain its defenses in this litigation.

Best,

Jake